

## **REMARKS**

Claims 72-79 are pending in the application. Reconsideration and allowance of the application is respectfully requested.

### **Prior art Rejection**

Claim 72 stands rejected under 35 U.S.C. § 102(a) as being anticipated by US Patent no. 6,078,086 to Buck, et al. ("Buck"). Claims 73-76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buck in view of Official Notice. Claims 77-79 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buck in view of Official Notice and further in view of "Mobile Agents. Reconsideration off these rejections is respectfully requested.

The invention defined by claims 72-79 relates to a database searching apparatus which includes a search engine and database. The database stores search listings. Advertiser search listings may include a search term and a **cost per click** (CPC). Moreover, advertiser search listings may include **a desired rank** and **a maximum cost per click** maximum CPC. These are unique features, missing from Buck. The advertisers can change components of their search listings.

Further, the database searching apparatus in accordance with claim 72 includes an account management server. The account management server implements a system in which advertisers appearing in the database can maintain their desired place within the rankings of search listings as presented to searchers as the competitive environment changes, with a much lower expenditure of human effort. The account management server is operative to update automatically the advertiser's search listing according to the advertiser's specified **desired rank** and/or **maximum cost per click**. This system allows the advertisers to automatically manage their search listings and advertising expenditures related thereto. For the operator of a pay for placement web site, the system reduces or eliminates oscillations or other rapid variations that are detrimental to the average CPC and impact revenue and costs for the operator.

**I. Buck fails to disclose an Account Management Server as recited in claim 72**

A. Claim 72 recites "A database searching apparatus comprising: an account management server...." Lines 14-28 of claim 72 recite specific operational features of the account management server, such as automatically adjusting the CPC of a search listing or automatically moving the search listing according to advertiser inputs to the account management server. The basis in the specification for these features is the account management server 22 in FIG. 1 of the application as filed and described, for example at page 20, line 17-page 21, line 2. Further, the specification at page 44, lines 24-27 explains that "In one embodiment, the methods described herein may be performed by one or more program codes operating in conjunction with the account management server 22 including the database 38 and the search engine web server 24 including the search database 40 (FIG. 1)." FIGS. 10-30 and 32-39 are flow diagrams illustrating operation of a system including an account management server and associated program code in accordance with the present embodiments including the features of claim 72.

B. The Final Office Action acknowledges that "Buck does not expressly disclose that the server is an account management server." Applicants agree, since Buck only discloses a single server, "a listing server". Claims 8-9 of Buck do acknowledge that the listing server can "respond to search inquiries from *other servers*," (*emphasis added*) and that the other servers may in turn receive other relevancy measures from the listing server for use by the other servers. Similarly, claims 21-22 of Buck refer to "other search servers."

However, there is no suggestion in Buck of an "account management server." These "other servers" are using the relevancy measures from the listing server as a conversion of the listing server's search report ranks listing. The other servers are *processing search results*, according to some relevancy measure. There is no disclosure or suggestion that any of the otherwise undefined "other servers" is **an account management server** as recited by claim 72. Moreover, the operation of the

account management server recited in claim 72 completely missing from Buck's "other server" as well. Thus, Applicants must disagree with the statement in the Final Office Action that the "other servers" mentioned in claims 8-9 and 21-22 as "a server which can be used for this purpose" of the claimed account management server.

Buck does disclose a listing server in the Summary and in paragraph 6, line 7. However, the disclosed listing server includes the listings database and is arranged to provide a search report of relevant listings in response to a search query, column 4, lines 1-12. This disclosure of Buck is thus more like the search engine and the database recited by present claim 72. On the other hand, Buck does not disclose any server with that operates as an account management server and which includes the featured operation of claim 72.

C. In the response to the Applicant's Arguments, the Final Office Action asserts, "The Examiner does not interpret the account management server as having been part of the claim recitation prior to Applicants' amendment making this argument moot." Applicants do not understand what is meant by this assertion. It appears that the recitation of the account management server is simply being ignored or read out of the claim in the Final Office Action. In fact, claim 72 was properly amended by the Amendment filed May 29, 2007 in response to the Examiner's rejection under 35 U.S.C. § 112, second paragraph. Proper support was cited in the specification, and the amendment to claim 72 was never objected to or disallowed. Accordingly, the assertion that claim 72 is not interpreted as including the account management server is not understood and is not a proper basis for ignoring a distinguishing claim feature.

Further, in the response to the Applicant's Arguments, the Final Office Action asserts, "the addition of an account management server is an intended use." It is respectfully submitted that this statement is baseless and meaningless. In fact, the account management server is a structural feature described in detail in the specification as filed, as noted above. The cooperation of this structural feature with the other structural features of the claim (the database and the search engine) is recited in

claims 14-28 of the claim. This is not “an intended use,” but detailed recitation of the claim elements and their interaction.

Accordingly, since claim 72 includes a structural feature wholly absent from Buck, the 35 USC § 102 (a) rejection of claim 72 may not be maintained.

## **II. Buck fails to disclose an Account Management Server as recited in claim 72**

Claim 72 recites “a database ... including a plurality of search listings...the search listing including ... a **desired rank** specified by the advertiser for a search listing and a **maximum cost per click** (maximum CPC) and a cost per click (CPC) associated with the desired rank...” Buck does not disclose these bolded items. Buck does not even operate on a “cost per click basis,” but operates on a subscription or a credit point basis. Buck refers to these as the “denominated value” of a search listing.

A. The Final Office Action refers to Buck column 7, line 58 through column 8, line 67 as disclosing these features. Actually, the cited portions of Buck disclose the subscription embodiment of Buck. Buck actually relates to a search system in which an advertiser pays for a subscription for a search listing. The subscription places the subscriber's search listing on the database for an agreed-upon time period. The subscription fee, rather than a CPC, is used for sorting and displaying search results to a searcher. No clickthrough charge is assessed to an advertiser and no clickthrough or bid amount is used to order search listings, as in a CPC system. Thus, Buck does not disclose—and has no need for—a CPC.

Buck column 8, lines 42-53, discloses an alternative embodiment using credit points for a subscriber account. “Credit points may be purchased at stated dollar values...the subscriber must use credit point to increase a listing's rank.” Further, column 8, lines 54-67 discloses another credit point system in which credit points are awarded to a subscriber each time a user clicks on a search listing. Credit points are then assessed against the subscriber's account on some discounted basis. Again, credit points are used rather than a cost per click. The feature of a cost per click (CPC) is not disclosed by Buck.

B. Further, Buck does not disclose a desired rank or a maximum CPC as recited by claim 72. In Buck's system, a subscriber may "adjust the subscription fee upward if maintenance of a desired position against competitors or a higher position is desired," col. 8, lines 3-7. This is merely adjustment of the subscription fee ("denominated value") that the server search program uses to determine the order of site listings presented to a user. This does not correspond to a desired rank, which is the rank in the ordered search listing desired by an advertiser. Buck only allows a subscriber to control his search listing's position by adjusting his denominated value, such as the subscription fee. However, the rank assigned to a listing is also a function of the denominated values of other subscribers. If another subscriber adjusts his subscription fee to exceed a first subscriber's subscription fee, the first subscriber will be dropped in rank in the search result list. There is no way in Buck's system to specify a desired rank.

Still further, Buck does not disclose a maximum CPC. In Buck, there is no disclosure or suggestion of a maximum CPC. Page 16, line 26-page 17, line 2 of the present application explains "As used herein, a "bid" is the **maximum cost per click** (CPC) that the system may set on behalf of an advertiser for the listing for a given term. A bid is denominated in a money amount. A bid is associated with a desired rank which is an ordinal number. For price and place protection (PPP), there is a single bid/desired rank combination. For plural price and place protection (PPPP), there may be multiple bid/desired rank combinations, where one of the bid/desired rank combinations is the default. The CPC is what the advertiser is charged for a clickthrough. The CPC may be lower than the bid [or maximum CPC] for the listing for a search term" (*emphasis added*). The maximum CPC serves as a limit or control on the automatic operation of the account management server to set bid amounts or CPCs for an advertiser. The account management server is constrained to not exceed the maximum CPC when setting the CPC for the search listing.

As noted, Buck does not operate on a CPC basis, but rather a subscription basis. Accordingly, Buck does not disclose a maximum CPC. Further, Buck does not disclose

any maximum or limitation on any amount that may be set for a search listing. Buck does not operate automatically, so Buck has no need to constrain or limit any operation of an automatic server or other device.

### **III. Conclusion**

Accordingly, Buck fails to show each and every limitation of claim 72. Therefore, the rejection under 35 U.S.C. § 102(a) may not be maintained. Each of claims 73-79 is dependent from claim 72 and adds further limitations thereto, and is submitted to be patentable for the same reasons. Moreover, the additionally cited prior art does not fill the gap between the claimed invention and Buck. Withdrawal of the rejections of claims 72-79 is respectfully requested.

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,

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August 25, 2008  
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